

**MINUTES OF THE
EXECUTIVE APPROPRIATIONS COMMITTEE**

Wednesday, February 22, 2012 - 6:10 p.m. - Room 210 Senate Building

Members Present:

Sen. Lyle W. Hillyard, Co-Chair
Rep. Melvin R. Brown, Co-Chair
Sen. Kevin T. Van Tassell, Vice Chair
Rep. John Dougall, Vice Chair
Sen. Scott K. Jenkins
Sen. Patricia W. Jones
Sen. Peter C. Knudson
Sen. Ben McAdams
Sen. Karen W. Morgan
Sen. Wayne L. Niederhauser
Sen. Ross I. Romero
President Michael G. Waddoups
Rep. Gregory H. Hughes
Rep. Brian King

Rep. David Litvack
Speaker Rebecca D. Lockhart
Rep. Ronda Rudd Menlove
Rep. Jennifer M. Seelig
Rep. Christine Watkins

Members Excused:

Rep. Brad L. Dee

Staff Present:

Jonathan Ball, Legislative Fiscal Analyst
Steven Allred, Deputy Director
Greta Rodebush, Legislative Secretary
Karen Mitchell, Committee Secretary

Note: A copy of related materials and an audio recording of the meeting can be found at www.le.utah.gov.

1. Call to Order/Approval of Minutes

Co-Chair Hillyard called the meeting to order at 6:30 p.m. There were no minutes to approve.

2. Unfinished Business from Previous Meeting's Agenda

The Committee did not discuss any unfinished business from the previous meeting's agenda.

3. Subcommittee Reports

a. Social Services Appropriations Subcommittee (Tab 9)

Sen. Allen M. Christensen presented the subcommittee report. He was assisted by LFA analysts Russell Frandsen, Stephen Jardine, and Gary Ricks.

Sen. Christensen stated that the subcommittee held fourteen meetings that were well attended and had generated a lot of discussion. The subcommittee prioritized 39 ongoing requests totaling \$108 million and 17 one-time requests totaling \$64 million.

Sen. Christensen reviewed the "Ongoing Subcommittee Priority Lists, 2012 General Session" on page 9-114 of the subcommittee reports.

Sen. Christensen congratulated the Department of Workforce Services (DWS) for providing a \$97,900 ongoing program reduction beginning in FY 2013, Item 39, DWS - Reduce General Assistance Provided to Disabled Adults w/o Dependent Children.

Sen. Christensen also discussed priorities funded through internal reallocations within the Department of Health (DOH) and the Department of Human Services (DHS), two fee changes, and intent language.

Sen. Christensen highlighted specific ongoing and one-time funding requests for the DOH, the DHS, and the Utah State Office of Rehabilitation on pages 9-114 and 9-115. The subcommittee also recommended the non-state funding requests for the Department of Workforce Services.

Rep. Litvack inquired about the ongoing funding request for Item 3, DHS - DSPD Issues, \$9.4 million. Sen. Christensen explained that the \$9.4 million would be used to fix a structural imbalance, youth with disabilities aging out of DCFS custody, an unfavorable FMAP rate change, and additional needs as a mandatory requirement of the Medicaid waiver.

Co-Chair Hillyard commented that legal staff had reviewed the subcommittee's intent language and determined that separate legislation would not be necessary.

b. Business, Economic Development, & Labor Appropriations Subcommittee (Tab 2)

Sen. Jerry W. Stevenson and Rep. Todd E. Kiser, Co-Chairs, presented the report. They were assisted by Dr. Andrea Wilko, Chief Economist, and Zack King, Fiscal Analyst.

Rep. Kiser stated that Rep. Wilcox, House Vice Chair, had asked to be excused. He mentioned that the subcommittee had extended three of its meetings by one hour to hear presentations on the requests for appropriation.

Rep. Kiser reviewed some revenue adjustments for FY 2013 on page 2-1, rates and fees on pages 2-3 through 2-38, and intent language for the current fiscal year on pages 2-90 through 2-92. He stated that the subcommittee also realigned funding for the Governor's Office of Economic Development, Business Development, and the Department of Alcoholic Beverage Control (DABC).

Rep. Kiser called attention to one piece of intent language and some fee changes that were not included in the subcommittee report. The intent language reads as follows:

It is the intent of the Legislature that the Labor Commission be allowed to add five additional vehicles for the UOSH Division.

Rep. Kiser distributed a copy of the fee changes to the committee members. He explained that the subcommittee had not had an opportunity to review those changes, and therefore, they were not included in the report.

Co-Chair Hillyard indicated that the EAC would not be taking any action in today's meeting, but would take the proposed intent language and fee changes into consideration.

Rep. Kiser asked that the EAC consider directing \$6 million currently set aside from earmarked sales tax to the Tourism Marketing Performance Fund, and \$11,627,900 set aside for surplus to the Industrial Assistance Fund. The subcommittee also recommended the ongoing and one-time priority lists on pages 2-93 and 2-94.

Rep. Kiser read a memorandum requesting that the EAC give preference to four requests for appropriation related to homeless issues in Utah when prioritizing \$22 million in mortgage foreclosure settlement funds.

Sen. Stevenson briefly mentioned some of the items on the "Ongoing Subcommittee Priority Lists, 2012 General Session" on page 2-94.

President Waddoups asked about the prioritization of the homeless services requests. Rep. Kiser stated that the subcommittee had prioritized the requests in order of importance. However, the subcommittee felt that the mortgage foreclosure settlement funds could address those issues.

President Waddoups inquired about the ongoing funding for Item 6, Liquor Stores, \$1.8 million. Rep. Kiser commented that in light of the fact that the DABC's Interim Director had found some substantial savings within the department last year, the subcommittee chose to support the Governor's budget recommendation to keep the liquor stores open. Rep. Kiser confirmed that the subcommittee had heard the Legislative Auditor General's audit on the DABC.

In regards to the \$2.5 million ongoing request for the Engineering Initiative (Item 2), Rep. King wanted to make sure that there was no duplication of funding. He pointed out that the Higher Education Appropriations Subcommittee had presented a \$2.5 million ongoing request for the Engineering Initiative as well in yesterday's meeting.

Rep. Litvack asked about the \$5 million one-time funding request for Item 22, Hale Center Theatre. Rep. Kiser commented that a subcommittee member had proposed a substitute motion to reduce the \$5 million to \$2 million. However, Rep. Kiser was not certain that the substitute motion had passed. He had directed staff to listen to the audio recording to confirm the voice votes.

Rep. Kiser explained that the Hale Center Theatre was interested in moving from its current location in West Valley City to the Presidium property in Sandy, and that the \$5 million would serve as seed money for the \$50 million project.

Sen. Jones declared a conflict of interest as she is a member of the board for the Hale Center Theatre. It was her understanding that the Hale Center Theatre had wanted to expand in its present location but had encountered some problems getting the land approved. Rep. Kiser stated that he had not heard about the expansion, only that Sandy City was very interested in having a theater in their area and was willing to bond.

Co-Chair Hillyard informed the committee members that Rep. Kiser was retiring from the Legislature and that today would be his last meeting. He thanked Rep. Kiser for his friendship, and expressed the EAC's appreciation for his great work.

c. Executive Offices and Criminal Justice Appropriations Subcommittee (Tab 3)

Sen. Daniel W. Thatcher and Rep. Eric K. Hutchings, Co-Chairs, presented the report. They were assisted by LFA analysts Gary Syphus and Zack King.

Sen. Thatcher called attention to the ongoing and one-time priority lists on pages 3-66 and 3-67.

Sen. Thatcher noted that because the Department of Corrections (DOC) and the Department of Public Safety (DPS) had significant nonlapsing balances, the subcommittee recommended that the DOC use \$9

million to supplement the \$2 million ongoing funding request for the Parole Violator Center for the next two years. The subcommittee also recommended that the DOC use \$500,000 in nonlapsing funds for medical needs at the Draper Prison.

The subcommittee also recommended using nonlapsing funds for the following: returning \$3 million one-time unspent funds to the Transportation Fund; \$2.25 million for DPS one-time requests that included UHP equipment; \$3 million from the Driver License Division plus \$800,000 from the Uninsured Motorist Fund to replace one of the helicopters for the Aero Bureau.

Rep. Hutchings pointed out that the departments had done a great job in identifying savings over the past few years and that the DPS will cover many of its one-time requests with internal savings.

Rep. Hutchings highlighted some of the critical needs on the "Ongoing Subcommittee Priority Lists, 2012 General Session" on page 3-66.

Rep. Hutchings stated that the items at the top of the "One-time Subcommittee Priority Lists, 2012 General Session" on page 3-67 are "must-fund" items.

Sen. Thatcher discussed the status of JJS - Youth Services and Receiving Centers. He explained that while Juvenile Justice Services (JJS) had been losing federal funds over the past several years, JJS was able to absorb those costs with the help of one-time funding from the Legislature. He stated that if the Legislature did not have the ongoing funds to keep the Youth Services and Receiving Centers open this year, the subcommittee had also recommended one-time funding.

Sen. Thatcher stated that failure to fund the Parole Violator Center and Jail Contracting Growth would result in early releases.

Rep Litvack asked about Item 10, DPS - Utah Immigration Accountability and Enforcement, on the one-time priority list. Rep. Hutchings explained that a one-time start up cost of \$5.4 million would be required to implement H.B. 116, "Utah Immigration Accountability and Enforcement Amendments." After that, the program would self fund through permit fees.

Jonathan Ball identified some items of intent language that may need to be written into a bill or reworded. They included Items 4, 8, 10, and 12 on pages 3-46 and 3-47 and Item 2 on page 3-62.

Sen. Thatcher remarked that the subcommittee supported legislation that creates a restricted account to capture \$2 million one-time funds from the Foreclosure Fraud Settlement to fund Mortgage and Financial Fraud Investigation and Prosecution staff in the Attorney General's Office.

Rep. Hutchings proposed that a third category for "pass through" money be added to the ongoing and one-time budget categories. He felt that three categories would more accurately reflect what the departments are spending.

d. Natural Resources, Agriculture & Environmental Quality (Tab 6)

Sen. David D. Hinkins and Rep. John G. Mathis, Co-Chairs, presented the report. They were assisted by LFA analysts Ivan Djambov and Angela Oh.

Sen. Hinkins stated that the subcommittee recommended a \$2.8 million one-time appropriation for the Division of Parks and Recreation from restricted funds to help maintain the FY 2012 funding level in FY 2013.

Rep. Mathis also noted that the courts, through the EPA, had imposed water quality testing for pesticides, which had increased the costs to Department of Environmental Quality (DEQ). Initially, the department proposed a set of fee increases for UPDES pesticide applicators to offset this cost. The new fees would have been a financial burden to mosquito abatement, private land owners, and other applicators of pesticides and herbicides. The subcommittee proposed taking \$120,000 from the Forestry, Fire, and State Lands restricted account to offset the fee increase this year.

Rep. Mathis reviewed the "Ongoing Subcommittee Priority Lists, 2012 General Session" on page 6-128.

Sen. Hinkins reviewed items on the "One-time Subcommittee Priority Lists, 2012 General Session" on page 6-129.

Rep. Litvack asked about the one-time funding request for Item 2, Administrative Law Judge - \$150,000. Rep. Mathis explained that the \$150,000 would allow DEQ to hire an outside administrative law judge thereby reducing any conflict of interest. The original funding request was for \$250,000, but the subcommittee felt that \$150,000 would be enough to get started.

Rep. Litvack asked if there were any other DEQ cuts or funding requests that were not included on the priority lists. Sen. Hinkins indicated that the 2011 Legislature cut DEQ's budget by \$228,800, which included the consolidation of two directors positions. DEQ, however, diverted the consolidation by cutting in other areas. The subcommittee voted to implement the cuts as specified by the Legislature last year and to reduce DEQ's budget again by \$228,800. Rep. Litvack asked if the consolidation could have an impact on DEQ's regulatory function. Rep. Mathis stated that the subcommittee did not think so. Sen. Hinkins indicated that DEQ would like to have the \$228,800 restored.

Sen. Morgan asked if the subcommittee heard any presentations on improving air quality along the Wasatch Front. Sen. Hinkins stated that the subcommittee did not hear any presentations this year but the Legislature did appropriate money for the Uintah Basin last year.

Rep. Mathis mentioned that the Governor had recommended \$250,000 for the Administrative Law Judge, and the transfer of \$400,000 from a restricted account for Hazmat.

Co-Chair Hillyard stated that the intent language for Natural Resources - Parks & Recreation, paragraph 5, regarding golf course management, on page 6-116 may require a bill. Rep. Mathis indicated that two bills had been drafted and were ready to go if needed.

e. Public Education (Tab 7)

Sen. Howard A. Stephenson and Rep. Merlynn T. Newbold, Co-Chairs, presented the report. They were assisted by LFA staff analysts Ben Leishman and Dr. Thomas Young.

Sen. Stephenson discussed funding priorities on the "Ongoing Subcommittee Priority Lists, 2012 General Session" on page 7-29.

Sen. Stephenson noted that Computer Adaptive Testing is the Utah State Board of Education's number one priority ahead of funding student growth.

Rep. Newbold pointed out that at the chairs' discretion, Item 18, MSP - Small Schools Formula Increase, and Item 21, MSP - SB 76 - Collaborative Performance Bonus, were ranked without dollar amounts because the subcommittee members had recommended varying amounts for both programs. In addition, the fiscal note for S.B. 76 was not yet available.

Rep. Watkins asked how the ongoing funding for Item 22, USOE - iSchool would be disbursed. Sen. Stephenson stated through the RFP process, the State Board of Education, the Utah State Office of Education, and State Purchasing would select a company to outfit an entire school with tablets. Similarly, schools would compete to show that they were ready to implement the program in the most optimal way.

Sen. Stephenson reviewed the "One-time Priority Lists, 2010 General Session" on page 7-30.

Rep. Dougall asked why Item 2, Teacher Supplies and Materials was not listed as an ongoing expense particularly since the program has been funded for the last two decades. Rep. Newbold stated that Teacher Supplies and Materials is typically funded as a one-time item even though the funding amounts often vary. For FY 2013, the subcommittee did not recommend switching to ongoing funding.

Rep. Menlove stated that she would like to have a discussion with Sen. Stephenson regarding the funding request for Item 15, UEN - E-Rate Matching Incentive, \$3.6 million. She indicated that UEN would like to be included in that discussion because there may be some implications that may affect UEN and their personnel.

Rep. Litvack asked why Item 7, MSP - Early Intervention Technology, and Item 8, MSP - Early Intervention Program, were listed as one-time rather than ongoing as recommended by the Governor. Rep. Newbold stated the subcommittee chose to prioritize those items as one-time.

Rep. Newbold explained that intent language was not drafted for several budgetary concepts to make it very clear that they were conceptual only.

Co-Chair Hillyard explained that the Public Education bill is unique in that it includes both law and appropriations. In looking at the budgetary concepts, staff has determined that some of the concepts will need to be written as separate bills.

Jonathan Ball reiterated that the Public Education bill is a separate appropriations bill because it contains both statute and an appropriation. He explained that the subcommittee's report was divided into three broad categories: 1) pages 7-1 through 7-28 contain appropriations to existing programs; 2) pages 7-31 and 7-32 contain conforming language where statute needs to be changed to match amounts appropriated; 3) pages 7-33 through 7-36 contain proposed concepts that may need intent language or legislation.

Mr. Ball noted one piece of intent language, #2 on page 7-19, which needs to be rewritten to make the development of a statewide financial management system less imposing on the Utah State Office of Education.

Rep. Dougall stated that he had a bill file on school financial reporting that he would be willing to discuss.

Co-Chair Hillyard stated that the EAC would not be meeting tomorrow night.

MOTION: Rep. Brown moved to adjourn. The motion passed unanimously.

Co-Chair Hillyard adjourned the meeting at 8:10 p.m.